

Office of the  
CLARK COUNTY LAND USE HEARING EXAMINER

1300 Franklin Street  
P.O. Box 9810  
Vancouver WA 98668-9810  
Phone (360) 397-2375  
Form DS1333

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**NOTICE TO PARTIES OF RECORD**

**PROJECT NAME: Outside Storage Area Expansion**

**CASE NUMBERS: PSR2009-00035, CUP2009-00009, SEP2009-00077**

The attached decision of the Land Use Hearing Examiner is final unless a motion is filed for reconsideration or an appeal is filed with Superior Court.

**Motion for Reconsideration:**

Any party of record to the proceeding before the hearings examiner may file with the responsible official a motion for reconsideration of an examiner's decision within fourteen (14) calendar days of written notice of the decision. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The motion must be accompanied by the applicable fee and identify the specific authority within the Code or other applicable laws, and/or specific evidence, in support of reconsideration. A motion may be granted for any one of the following causes that materially affects their rights of the moving party:

- a. Procedural irregularity or error, clarification, or scrivener's error, for which no fee will be charged;
- b. Newly discovered evidence, which the moving party could not with reasonable diligence have timely discovered and produced for consideration by the examiners;
- c. The decision is not supported by substantial evidence in the record; or,
- d. The decision is contrary to law.

Any party of record may file a written response to the motion if filed within fourteen (14) calendar days of filing a motion for reconsideration.

The examiner will issue a decision on the motion for reconsideration within twenty-eight (28) calendar days of filing of a motion for reconsideration.

Mailed on: **March 17, 2010**



Project Name: Outside Storage Area  
Expansion  
Project Number: PSR2009-35  
Planner: Michael Uduk  
Hearing Date: 2/25/10

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OUTSIDE STORAGE AREA EXPANSION  
CUP2009-00009; PSR2009-00035;  
SEP2009-00077

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**BEFORE THE LAND USE HEARINGS EXAMINER  
CLARK COUNTY, WASHINGTON**

REGARDING THE APPLICATION FOR A )	FINAL ORDER
CONDITIONAL USE PERMIT (CUP) AND A SITE )	
PLAN APPROVAL FOR A TRUCKING TERMINAL, AND )	
TO EXPAND AND MAINTAIN THE EXISTING GRAVEL )	OUTSIDE STORAGE AREA EXPANSION
OUTDOOR STORAGE AREA FOR TRUCK TRAILERS )	CUP2009-00009, PSR2009-00035 & SEP2009-
THAT WAS DEVELOPED WITHOUT SITE PLAN )	00077
REVIEW ON 3.97 ACRE PROPERTY ZONED LIGHT )	
INDUSTRIAL (ML) IN THE UNINCORPORATED )	
CLARK COUNTY, WA. )	

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**APPROVED WITH CONDITIONS**

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**INTRODUCTION**

The applicant is requesting a conditional use permit (CUP) and preliminary site plan approval for a long haul trucking terminal. The applicant also wants to continue to expand the storage of freight trailers onto the existing gravel area. The approximately 3.92 acre site is zoned ML.

The property had a previous site plan review approval in 1989, (Case #SPR89-116); but county records do not show that the site plan received final site plan approval. The site plan approved a 6,000 square foot building used as a truck repair shop; a 6,750 square foot paved parking area, and a 750 square foot wash bay. In 1995, a fast track review (Case #FT95-070), approved a change in use from truck repair to a dispatch yard for industrial cleaning services. Another site plan review (Case #PSR2004-00031) was withdrawn on August 7, 2007, by Taylor Trucking without completion.

There is a code enforcement case (Case #CDE2007-01980) that was instituted against Taylor Trucking for operating a trucking business at the site without site plan approval. Taylor Transport also converted the on-site grass septic drain field area into a gravel parking lot for vehicle storage and circulation without Health Department or Development Engineering review for stormwater compliance. Except for R1-6 zoning to the east of the site, all surrounding lots are zoned ML.

The property is located within the City of Vancouver's urban growth area (UGA). It is situated in an area served by Fire Protection District 5, Vancouver School District, South Orchards Traffic Impact Fees District, and Parks Improvement District 7. The City of Vancouver provides both public water and sewer services in the area.

**Location:** 7117 NE 47<sup>th</sup> Avenue; Parcel Number(s): Tax Lot 1/12 (099725-000) located in the NE ¼ of Section 12, Township 2 North, Range 1 East of the Willamette Meridian

**Applicant/Owner:** The LMRK Group, LLC  
PO Box 601  
Woodburn, OR 97071

**Comp Plan:** Light Industrial (ML)

**Applicable Laws:** Clark County Code Chapter: 40.350 (Transportation), 40.350.020 (Transportation Concurrency), 40.385 (Storm Water Drainage and Erosion Control), 40.610 (Impact Fees), 40.230080 (Light Industrial (ML)), 40.520.030 (Conditional Use Permits, CUP), 40.520.040 (Site Plan Review), 40.320 (Landscaping and Screening), 40.430 (Parking Standards), 40.320 (Landscaping and Screening), 40.360 (Solid Waste), 40.370.010 (Sewer Connection, 40.570.080 (C) (3) (k) (Archaeology), 40.410 (CARA), 15.12 (Fire Code), 40.570 (SEPA), 40.510.030 (Procedure)

**Vesting:** November 4, 2009

## **HEARING AND RECORD**

The Public Hearing on this matter was held on February 25, 2010 and the record was kept open for one week to allow the staff to respond to the applicant's late submissions – Staff submitted a revised report on March 4, 2010, which the applicant acknowledged on March 9, 2010, at which point the record was closed. Records of all testimony received are filed at the Clark County Department of Community Development.

### **Pre-Hearing Public Comments:**

The County received a letter from Carleen and Perry Stephens, Exhibit 13, who reside at 7006 NE 47<sup>th</sup> Avenue. The letter discusses traffic problems on NE 47<sup>th</sup> Avenue. The letter indicates that trucking traffic to and from the site usually poses potentially unsafe conditions that need to be mitigated. The letter concluded by suggesting that a stop sign should be posted where the driveway to the site intersects NE 147<sup>th</sup> Avenue to inform drivers to stop before proceeding to turn right or left onto NE 147<sup>th</sup> Avenue.

The letter was forwarded to Development Engineering staff for review.

### **Hearing:**

Michael Uduk, the lead County Planner on this application, introduced the site, highlighted key issues in the Staff Report and made a recommendation of approval subject to final review of the applicant's recent submittals, after initially recommending denial in the first staff report. In response to Exhibits 20, 20A and 21 which the applicant submitted in response to the Staff Report, David Bottamini submitted Storm Water feasibility review with new conditions of approval (Ex 25) which *inter alia* required the applicant to address the issues raised by closed depression on the north side of the site.

Mr. Uduk also raised the need to establish a septic waiver if the property cannot be connected to a public sewer and asked for time to review the landscape proposal.

Mitch Magenheimer applicant's representative indicated that notwithstanding sewer availability request in the record, the applicant is not expanding sewer usage, merely paving parking.

Parties agreed to keep the record open – one week for the County to respond and one week as necessary for the applicant to have the right to a final rebuttal.

## **FINDINGS**

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The following issues were either raised by the applicant, addressed by staff in its report, or by agency comments on the application, and the Examiner adopts the following findings:

### **LAND USE:**

#### **Finding 1**

The applicant is requesting a conditional use permit and site plan review approval for a trucking terminal on approximately 3.92 acres zoned ML. Table 40.230.080-1 (4841) permits general freight trucking as a conditional use in the ML district subject to an approved site plan. As discussed in the Project Overview section of this report, the property has had non-conforming uses, for which preliminary site plan approvals were obtained but final site plan approvals were not obtained. The previous owners or tenants also implemented site improvements that were never reviewed or approved by the county. This application will be required to comply with the minimum standards in the applicable conditional use permit (CUP) and site plan review sections of the code.

### **Conditional Use Permit Review Standards:**

#### **Finding 2**

CCC 40.520.030 provides the general guidelines for CUP approval. CCC 40.520.030 (E) (1) authorizes the hearings examiner to impose other conditions found necessary to protect the best interest of the surrounding property or neighborhood. The examiner could establish conditions that may include but are not limited to:

- a. Increasing the required lot size or setback dimensions;
- b. Increasing street widths;
- c. Controlling the location and number of vehicular access points to the property;
- d. Increasing the number of off-street parking or loading spaces required;
- e. Limiting the number of signs;
- f. limiting the lot coverage or height of buildings because of obstructions to view and reduction of light and air to adjacent property;
- g. Limiting or prohibiting openings in sides of buildings or structures or requiring screening and landscaping where necessary to reduce noise and glare and maintain the property in a character in keeping with the surrounding area [see CCC 40.320.010 (C)]



- (4), Landscaping and Screening]; and,
- h. Establishing requirements under which any future enlargement or alteration of the use shall be reviewed by the county and new conditions imposed.

The hearings examiner must find that the establishment, maintenance or operation of the freight trucking business at this location will not be significantly detrimental to the health, safety or general welfare of persons residing or working in the neighborhood of the trucking business, or be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the county. [See CCC 40.520.030 (E) (1) (2), Actions by the hearings examiner]

The applicant has demonstrated that the proposed freight trucking terminal at this location can comply with the applicable minimum CUP standards in the code, and that its operation will not be detrimental to public health and safety in the area. Even though no new building construction is proposed, the applicant wants to comply with all applicable county laws by providing the following information in the preliminary site plan (Exhibits 20A and 21) consistent with the comprehensive plan policies and the zoning requirements:

1. Identifying paved parking areas;
2. Parking stalls are provided for the long haul trailers and employees;
3. Handicapped parking is identified;
4. A landscaping plan is proposed with the site and landscape islands are provided in the parking lot; (Exhibit 21)
5. A stormwater and erosion control plan and a narrative have been submitted; and,
6. Frontage road improvements have been proposed.

The applicant has provided adequate documentation to warrant approval of the long haul trailer storage business at this location. Details of the site plan elements are being discussed in the site plan review section of this decision.

### **Industrial Development Standards**

#### Finding 3

The proposed development must comply with the development standards in Table 40.230.080-2 as follows:

Table 3: Lot Setback, Lot Coverage and Building Height Requirements per CCC 40.230.080-2<sup>1</sup>

Subject	ML
Minimum area of new zoning district	None
Maximum area of new zoning district	None
Minimum lot area	10,000 square feet
Minimum lot width	100 feet
Minimum lot depth	100 feet
Maximum building height	60 feet for buildings. No height limitation for towers in all industrial zones

<sup>1</sup> See Table 40.230.080-2 for detail and clarification.



Minimum building setback	
Front/street side	20 feet
Side (interior)	10 feet
Rear	15 feet
Maximum building coverage	50 percent
Minimum landscaped area/type	15 percent

After reviewing the proposed site plan, the Examiner concludes:

1. Front yard setback:

The existing building (identified as office/shop in the site plan) has adequate front yard setback of 20 feet (or more) from NE 47<sup>th</sup> Avenue. This standard is met; therefore, no new condition is necessary.

2. Side yard setback:

The existing building (identified as office/shop in the site plan) has adequate side yard setback of 10 feet from the property southern property boundary.

3. There are two modular structures located along the southern property boundary that have a rear yard setback of less than 15 feet. The proposed site plan (Exhibit 20A) shows a 10 foot setback from the property boundary, which is substandard. Therefore, the rear yard setback for the modular structures from the southern property boundary should be 15 feet. The applicant will need to provide adequate setback for the modular structures from the southern property boundary prior to final site plan approval. (See Condition A-1a)

### **Commercial or Service use**

#### Finding 4

The applicant is not proposing any new building construction. The code allows 10 percent of the total floor area of all the buildings in an industrial site to be used for commercial or service uses not identified in Table 40.230.080-1 (Uses) as a permitted use in the light industrial zoning district. Therefore, a note shall be placed on the final site plan stating that:

“If a commercial or service use is proposed on this site, it shall occupy a maximum of 10 percent of the total floor area of all the industrial structures on this site.” (See Condition A-2b)

### **Outdoor Storage Standards:**

#### Finding 5

In addition to the required landscape screening, this development shall comply with the following standards, where applicable (CCC 40.230.080 (D) (5)).

- a. All storage areas (including but not limited to areas used to store raw materials, finished and partially finished products and wastes) shall be screened from adjoining properties or public rights-of-way to the L4 standard.
- b. Screening shall be placed on all sides of storage areas other than where a building wall would act as a screen.
- c. Outdoor storage is prohibited as follows:
  - (1) In floodways;
  - (2) On slopes greater than fifteen percent (15%);

- (3) In parking stalls required by Section 40.340 (Parking, Loading and Circulation);
  - (4) In areas where outdoor storage or display causes traffic or pedestrian circulation problems, as determined by the responsible official, or where a minimum five (5) foot-wide walkway does not remain clear and free of obstructions;
  - (5) Any materials that attract animals, birds or vermin; and
  - (6) In fire lanes.
- d. The applicant shall demonstrate that outdoor storage areas are adequately screened to minimize potential adverse impacts onto the neighboring residential properties to the east. (See Condition A-8)

### **Site Plan Review Standards:**

#### Approval Criteria:

CCC 40.320.010 provides landscaping and screening standards on private property. Perimeter landscaping requires native trees of a suitable nature planted 30 feet to the center. The standards also require three or four shrubs to be planted between the trees, and the provision of appropriate ground cover (or grass). The zoning on the abutting property to the development site determines the required landscaping type and buffer width.

#### Finding 6

The proposed development must provide the following buffers and landscaping schemes (per Table 40.320.010-1):

- a. On the north, the required landscaping is L1 within a 5 foot buffer;
- b. On the south, the required landscaping is L1 within a 5 foot wide buffer;
- c. On the east, the required landscaping is L5 within a 50 foot wide buffer or L4 within a 40 foot buffer; and,
- d. On the west, the required landscaping is L2 within a 10 foot buffer on the portion fronting NE 47<sup>th</sup> Avenue and L1 within a 5 foot buffer along the boundaries of Tax Lots 997290-000, 099727-000 and 099728-000.

The applicant has proposed a landscaping plan (Exhibit 21), which can comply with the minimum standard in the code when implemented as identified in the conditions of approval. (See Condition A-8)

### **Off-Street Parking, Handicapped Parking and Pedestrian Circulation:**

#### Finding 7

The proposed site plan identifies 28 parking stalls as employee parking. The site plan also shows 14 parking stalls for long haul trailers. The office/shop building is 6,000 square feet in area; therefore, the required parking is 6 off street-parking spaces. The applicant is providing 22 (or 366+ percent) more off-street parking spaces than required. [See Table 40.340.010-4 (G) (2) for details] Therefore, the parking standard is met.

The site plan identifies landscape islands in the employee parking area per CCC 40.430.010 (E) (3).

The site plan identifies one handicapped parking next to the main building per CCC 40.340.010 (B) (6) and Table 1106-1, International Building Code (IBC), 2003. Ordinarily, two handicapped parking would be required for this development based on the number of parking stalls that the applicant is providing. Given the use that is operating at the site, staff

finds and recommends that the one (1) handicapped parking be adjudged adequate by the examiner for this use. A note shall be placed on the final site plan stating that:

“If a use that generates more traffic, employees, and customers to and from the site is proposed, and if the use replaces the long haul trucking business, then the number of handicapped parking provided shall be increased to two or more.” (See Condition A-2c)

The parking area will be paved and parking stalls are shown per CCC 40.340.010 (A) (8). The applicant shall provide wheel curbs to prevent vehicles from overhanging onto the setback spaces and pedestrian circulation areas close to buildings. [See CCC 40.340.010 (B)] (See Condition A-1b)

#### Solid Waste Disposal

##### Finding 8

The proposed site plan shows an 8' x 10' (80 square feet) solid waste storage area next to the main building. This standard is met.

#### Outdoor Lighting

##### Finding 9

The applicant did not submit a lighting plan for the parking plot. Outdoor lighting in the parking lot shall be consistent with RCW 47.36.180 standards for lighting near public roadways, and shall not cast significant light or glare off-site on adjacent properties, especially on NE 47<sup>th</sup> Avenue to the west and the residential properties to the east (per CCC 40.340.010 (A) (7)).

Therefore, the applicant shall provide a lighting plan indicating that proposed lighting on the parking lot does not cast significant light and glare off-site on adjacent properties, especially on NE 47<sup>th</sup> Avenue to the west and the residential properties to the east, prior to preliminary site plan approval. (See Condition A-1c)

#### Loading Berth

##### Finding 10

Even though the main building is 6,000 square feet, the proposed used does not need a loading and off-loading berth as specified in Table 40.340.010-1; therefore, this standard is met and no condition of approval is necessary.

#### **Conclusion (Land Use):**

The proposed preliminary site plan can comply with the applicable section of the code, subject to conditions identified above.

#### **ARCHAEOLOGY:**

The applicant has submitted an archaeological pre-determination to the State Department of Archaeology and Historic Preservation (DAHP) prior to submittal of the application.

The DAHP concurs with the recommendation of the pre-determination that no additional studies are necessary; however, a note on the final construction plans will require that if resources are discovered during ground disturbance, work shall stop and DAHP and the county will be contacted. (See Condition A-2a)

**Conclusion (Archaeology):**

The proposed preliminary plan, subject to conditions identified above, meets the archaeology requirements of the Clark County Code.

**CRITICAL AQUIFER RECHARGE AREA (CARA):****Applicability****Finding 1**

The CARA code section applies to all critical aquifer recharge areas as defined in Section 40.410.010(C). Based on the county GIS mapping, the proposed project falls entirely in the area of a Category II, therefore, it may be subject to provisions of the CARA ordinance per CCC 40.410.020 depending on whether or not a Class V injection well is utilized for stormwater control or any current or future activities are listed in CCC 40.410.020 are applicable. The intent of the CARA code section is to protect groundwater that may be used in the future for drinking water or business purposes. Proposed on-site activities will include some maintenance of vehicles and a CARA permit is required (See Condition A-13)

**Conclusion (CARA):**

A CARA permit may be required per CCC 40.410.

**TRANSPORTATION:****Roads****Finding 1**

NE 47<sup>th</sup> Ave. is classified as an "Urban Collector", C-2cb. Clark County Concurrency staff has determined that a traffic study is not required and additional trips are not being proposed. As a result, frontage improvements are not required; however, the applicant is responsible for the dedication of additional right-of-way for a total of 30-foot half-width right-of-way. Based on the county GIS mapping, the additional right-of-way is 3 feet. The applicant shall propose a driveway approach that is consistent with Standard Drawing number F17. (See Condition A-3a)

The applicant proposes to widen NE 47<sup>th</sup> Avenue to the required 20-foot width from the front of the parcel to approximately 200 feet to the north, to the southern property line of parcel 996660-000, the proposed NE 47<sup>th</sup> Avenue Industrial Park, (PSR2008-00008). All roads within the urban area providing access to parcels being developed, whether such roads are to be public or private, shall at a minimum have an unobstructed and paved roadway width of twenty (20) feet, except in those cases where the preexisting road is eighteen (18) feet wide with one (1) foot wide shoulders, additional widening to the twenty (20) foot standard is not necessary. Any preexisting roadway narrower than eighteen (18) feet with one (1) foot shoulders shall be widened to the full twenty (20) foot standard. (See Condition A-3b)

**Road Modifications**

There are no road modifications associated with this proposal.

**Sight Distance Analysis****Finding 2**

The approval criteria for sight distances are found in CCC 40.350.030(B) (8). This section establishes minimum sight distances at intersections and driveways. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distance.

The applicant has not submitted a sight distance analysis to demonstrate compliance with the code requirements of CCC 40.350.030(B) (8). (See Condition A-3c)

**Conclusion (Transportation):**

The proposed preliminary plan, subject to conditions identified above, meets the transportation requirements of the Clark County Code.

**TRANSPORTATION CONCURRENCY:**

**Finding 1**

Concurrency staff has reviewed this application for a conditional use and site plan approval to allow a trucking terminal and maintain an existing outdoor gravel storage area. The applicant has submitted a site plan that shows no proposed increase in the size of the existing building. Because there is no additional building square footage proposed, trips generated by this existing facility are assumed to be already 'on-the-road'.

**STORMWATER:**

**Stormwater Applicability**

**Finding 1**

The provisions of Clark County Code Chapter 40.385 shall apply to all new development, redevelopment, and drainage projects consistent with the Stormwater Management Manual for Western Washington (SMMWW) as modified by CCC 40.385 and the county's stormwater manual. The project adds more than 5,000 square feet or more of new impervious surface and therefore the applicant shall comply with Minimum Requirements 1 through 10 for the new plus replaced impervious surfaces per CCC 40.385.020(A)(6)(b).

**Stormwater Proposal**

**Finding 2**

The applicant has proposed to provide water quality and quantity control. The applicant has proposed a bioswale and detention pond. If the applicant proposes during final engineering review to utilize facilities other than those proposed, the applicant shall demonstrate code compliance during final engineering review. The applicant shall meet all elements of the stormwater code section, CCC 40.385. Staff believes the applicant has thus far sufficiently demonstrated the project can be a feasible one. (See Condition A-6a)

**Site Conditions and Stormwater Issues:**

**Finding 3**

Per CCC 40.385.020(C) (1)(a), no new development or redevelopment shall be allowed to materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. (See Condition A-6b)

The area to the north appears to be a closed depression. (See Condition A-6c) If the applicant is unable to demonstrate the closed depression does not exist, the following applies:

Either all runoff generated by the post-developed site shall be infiltrated on-site or a closed depression analysis shall be performed. If a closed depression analysis is performed, the proposal shall demonstrate one of two following scenarios to verify that the adjacent property containing the closed depression will not be adversely affected.

## Scenario 1 - Infiltration rates cannot be obtained from an offsite closed depression

In this scenario, the proposal would need to demonstrate that the post-developed runoff volume from the site will not exceed the pre-developed runoff volume. This volume is represented within the file generated by the Western Washington Hydrology Model. This shall be achieved by retaining and infiltrating the difference in total runoff volume generated by the pre and post-developed site conditions on-site. Only the equivalent runoff volume generated by the pre-developed site conditions would be permitted to discharge to the offsite closed depression. On-site infiltration testing below the proposed retention facility shall be performed to prove adequate infiltration rates for the recovery of retained storage volumes.

## Scenario 2 — Infiltration rates can be obtained from adjacent off-site property

In this scenario, the proposal shall demonstrate that the additional runoff volume generated by the post-developed site could be detained and infiltrate within the off-site closed depression without adversely affecting adjacent parcels. Infiltration tests within and below the bottom of the off-site closed depression shall be performed in order to verify that the closed depression will recover and not cause significant stage increases within the closed depression.

If the applicant chooses to infiltrate runoff on-site, the applicant shall meet the code section as it applies to infiltration requirements, CCC 40.385.020 (C). (See Condition A-6d)

### **Conclusion (Stormwater):**

The proposed preliminary stormwater plan is feasible.

### **FIRE PROTECTION:**

#### **Fire Marshal Review**

This application was reviewed by Tom Scott in the Fire Marshal's Office. Tom can be reached at (360) 397-2375 x4095 or 3323. Information can be faxed to Tom at (360) 759-6063.

### **WATER & SEWER SERVICE:**

#### **Finding 1**

The city of Vancouver provides public water and sewer services in the area. A utility review (Exhibit 2, tab 15) from the city indicates that sewer is 200 feet from the property line. The letter also concludes that sewer is not available to the site. CCC 40.370.010 (C) requires an industrial structure (including an existing industrial structure) to connect to public sewer system, except where an existing industrial structure does not materially increase effluent production a sewer waiver can be approved using a Type 1 review process.

The existing septic system on the site had been compromised by the placement of gravel over the drain field. This situation needs to be redressed with the Clark County Health Department prior to final plat approval. (See Condition A-1d)

The applicant must also provide the necessary improvements to connect the building with public water provided by the city of Vancouver, if the building is not already so connected, prior to final site plan approval. (See Condition A-9a)

#### **Finding 2**

Submittal of a “Health Department Evaluation Letter” is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable

“Health Department Final Approval Letter” must be submitted, the Evaluation Letter will specify the timing of when the Final Approval letter must be submitted to the county (e.g., at Final Construction Plan Review). The Health Department Evaluation Letter will serve as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer. The Health Department Final Approval Letter will confirm that all existing wells and/or septic systems have been abandoned, inspected and approved by the Health Department (if applicable). (See Condition A-9b)

**Conclusion (Water & Sewer Service):**

The proposed preliminary plan, subject to conditions identified above, meets the water and sewer service requirements of the Clark County Code.

**IMPACT FEES:**

**Finding 1**

The proposed development will have an impact on traffic in the area, and is subject to Traffic Impact Fees (TIF) in accordance with CCC 40.610 & 40.620. The site is located within the South Orchards TIF District and TIF has been calculated in the amount of \$1,362.79 (made up of \$204.42 Local Fees and \$1,158.37 Regional Fees) for the approximately 3.92-acre freight terminal.<sup>2</sup>

“The impact fees shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated \_\_\_\_\_, and expiring on \_\_\_\_\_. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedules.” (See Condition C-3)

<b>SEPA DETERMINATION</b>
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**Determination of Non-Significance (DNS):** As lead agency, the county has determined that the requirements for environmental analysis, protection, and mitigation measures are adequately addressed in the development regulations and comprehensive plan adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws rules, as provided by RCW 43.21.240 and WAC 197-11-158. Our agency will not require any additional mitigation measures under SEPA. The proposal may include mitigation under applicable codes and the project review. This decision was made after review of a completed environmental checklist and other information on file with the County.

The likely SEPA determination of Non-Significance (DNS) in the Notice of Development Review Application issued on December 31, 2009, is hereby final.

<b>DECISION</b>
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Based upon the proposed plans (identified as Exhibits 20A and 21), and the findings and conclusions stated above, the Hearings Examiner **approves** this request, subject to the understanding that the applicant is required to adhere to all applicable codes and laws, and is subject to the following conditions of approval:

<sup>2</sup> Please if you dispute the TIF amount, contact Tahanni Essig at (360) 397-6118, ext. 5790 for explanation and alternative processes available to you. Please, refer to IFC2010-00007.



<b>Conditions of Approval</b>
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<b>A</b>	<b>Final Construction/Site Plan Review</b> <b>Review &amp; Approval Authority: Development Engineering</b>
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Prior to construction, a Final Construction/Site Plan shall be submitted for review and approved, consistent with the approved preliminary plan and the following conditions of approval:

**A-1 Land Use:**

- a. The applicant shall demonstrate that adequate setback is provided for the modular structures located along the southern property boundary and along the western property boundary abutting Tax Lots 997290-000, 099727-000 and 099728-000 prior to final plat approval. (See Land Use Finding 3)
- b. The applicant shall provide wheel stops or curbs to prevent vehicles from overhang onto the setback spaces or pedestrian circulation areas prior to final site plan approval. (See Land Use Finding 7)
- c. If outdoors lighting is proposed, then the applicant shall provide a lighting plan indicating that lighting on the parking lot will not cast significant light and glare off-sight onto adjacent properties, especially on NE 47<sup>th</sup> Avenue to the west and the residential properties to the east, prior to preliminary site plan approval. (See Land Use Finding 9)
- d. The applicant shall repair the septic drain field that had been compromised prior to final site plan approval. (See Water and Sewer Finding 1)

*The following note shall be placed on the final site plan stating that:*

- e. The applicant shall provide the improvements necessary to connect to public sewer system, if a new office building or replacement office building is proposed; if the existing office building is expanded; or, if a new or replacement modular office structure is installed on the site.

**A-2 Final Site Plan:**

The applicant shall submit and obtain County approval of a final site plan in conformance to CCC 40.320.040 and the following conditions of approval:

**a. Archaeology**

*A note shall be placed on the face of the final construction plans as follows:*

"If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Department of Archaeology and Historic Preservation in Olympia shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

**b. *A note shall be placed on the final site plan stating as follows:***

"If a commercial or service use is proposed, it shall occupy a maximum of 10 percent of the total floor area of all the buildings used for industrial activities."

(See land Use Finding 4)

- c. *A note shall be placed on the final site plan stating as follows:*  
“If a use that generates more traffic, employees, and customers to and from the site is proposed, and if the use replaces the long haul trucking business, then the number of handicapped parking provided shall be increased to two or more.” (See Land Use Finding 7)

**A-3 Final Transportation Plan/On-Site:**

The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350 and the following conditions of approval:

- a. The applicant is responsible for the dedication of 30 feet of half-width right-of-way along the frontage of the project. The applicant shall propose a driveway approach that is consistent with standard drawing number F17. (See Transportation Finding 1)
- b. The applicant shall comply with the off-site road improvement requirements of CCC 40.350.030 (B)(6)(b)(1). (See Transportation Finding 1)
- c. The applicant has not submitted a sight distance analysis and demonstrated compliance with the code requirements of CCC 40.350.030(B)(8). (See Transportation Finding 2)

**A-4 Final Transportation Plan/Off Site (Concurrency):**

The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350.

None

**A-5 Transportation:**

- a. Signing and Striping Plan: The applicant shall submit a signing and striping plan and a reimbursable work order, authorizing County Road Operations to perform any signing and pavement striping required within the County right-of-way. This plan and work order shall be approved by the Department of Public Works prior to final plat or final site plan approval.
- b. Traffic Control Plan: Prior to issuance of any building or grading permits for the development site, the applicant shall obtain written approval from Clark County Department of Public Works of the applicant's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.

**A-6 Final Stormwater Plan:**

The applicant shall submit and obtain County approval of a final stormwater plan for on and off-site facilities (as applicable), designed in conformance to CCC 40.385 and the following conditions of approval:

- a. If the applicant proposes during final engineering review to utilize facilities other than those proposed, the applicant shall demonstrate code compliance

during final engineering review. The applicant shall meet all elements of the stormwater code section, CCC 40.385. (See Stormwater Finding 2)

- b. Per CCC 40.385.020(C)(1)(a), no new development or redevelopment shall be allowed to materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. (See Stormwater Finding 2)
- c. A closed depression analysis shall be preformed if the applicant is unable to demonstrate a closed depression does not exist to the north where the applicant intends to discharge stormwater into. (See Stormwater Finding 2)
- d. If the applicant chooses to infiltrate runoff on-site, the applicant shall meet the code section as it applies to infiltration requirements, CCC 40.385.020 (C). (See Stormwater Finding 2)
- e. If the run-off is released to the north, provide a level spreader.

**A-7 Erosion Control Plan:**

The applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.385.

**A-8 Final Landscape Plan:**

The applicant shall submit and obtain county approval of a preliminary landscape plan per Table 40.320.010-1 prior to preliminary site plan review as follows:

- a. On the north, the required landscaping is either L1 within a 5 foot buffer;
- b. On the south, the required landscaping is L1 within a 5 foot wide buffer;
- c. On the east, the required landscaping is L5 within a 50 foot wide buffer or L4 within a 40 foot wide buffer; and,
- d. On the west, the required landscaping is L2 within a 10 foot buffer on the portion fronting NE 47<sup>th</sup> Avenue and L1 within a 5 foot buffer along the boundary of Tax Lots 997290-000, 099727-000 and 099728-000. (See Land Use Findings 5 and 6)

**A-9 Health Department Review:**

- a. The applicant must also provide the necessary improvements to connect the building with public water provided by the city of Vancouver, if the building is not already so connected, prior to preliminary site plan approval. (See Water and Sewer Finding 1)
- b. Submittal of a “Health Department Project Evaluation Letter” is required as part of the Final Construction Plan Review or early grading application. If the Evaluation Letter specifies that certain actions are required, the Evaluation Letter will specify the timing of when those activities must be completed (e.g., prior to Final Construction Plan Review, construction, Provisional Acceptance, Final Plat Review, building permit issuance, or occupancy), and approved by the Health Department. (See Water and Sewer Finding 2)

**A-10 Fire Marshal Requirements:**

None

**A-11 Other Documents Required:**

The following documents shall be submitted with the Final Construction/Site Plan:

- a. Stormwater Maintenance Covenant: - A "Developer Covenant to Clark County" shall be submitted for recording that specifies the following Responsibility for Stormwater Facility Maintenance: For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. An access easement to the private facilities for the purpose of inspection shall be granted to the county. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with Section 32.04.060

**A-12 Excavation and Grading:**

Excavation / grading shall be performed in compliance with CCC Chapter 14.07.

**A-13 Critical Aquifer Recharge Areas (CARA):**

The applicant shall submit and obtain approval for a CARA permit prior to final site plan approval.

<b>B</b>	<b>Prior to Construction of Development Review &amp; Approval Authority: Development Inspection</b>
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Prior to construction, the following conditions shall be met:

**B-1 Pre-Construction Conference:**

Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County.

**B-2 Erosion Control:**

Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.

**B-3 Erosion Control:**

Erosion control facilities shall not be removed without County approval.

<b>C</b>	<b>Provisional Acceptance of Development Review &amp; Approval Authority: Development Inspection</b>
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Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/site plan and the following conditions of approval:

**C-1 Stormwater:**

The installation of infiltration systems shall be observed and documented by a licensed engineer in the State of Washington proficient in geotechnical engineering. During the construction, the geotechnical engineer shall verify that the infiltration rates used in the final stormwater analysis are obtained at the exact locations and depths of the proposed stormwater infiltration facilities. The infiltration investigation shall include laboratory analysis based on AASHTO Specification M145. The timing of representative infiltration tests will be determined at the pre-construction conference.

**C-2 Verification of the Installation of Required Right-of-way Landscape:**

Prior to the issuance of an approval of occupancy for a site plan, the applicant shall provide verification in accordance with Section 40.320.030(B) that the required right-of-way landscape has been installed in accordance with the approved landscape plan(s).

**C-3 Impact Fees:**

Prior to issuance of a building permit, the applicant shall pay Traffic Impact fees to the Clark County Building Department in the amount of \$1,362.79 (made up of \$204.42 Local Fees and \$1,158.37 Regional Fees) for the approximately 3.92-acre freight terminal.

If the building permit application is made more than three years following the date of preliminary site plan approval, the impact fees shall be recalculated according to the then-current rate. (See Impact Fees Finding 1)

<b>F</b>	<b>Occupancy Permits Review &amp; Approval Authority: Building</b>
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Prior to issuance of an occupancy permit, the following conditions shall be met:

**F-1 Land Use:**

- a. Landscaping: Prior to the issuance of an approval of occupancy for final site plan, the applicant shall submit a copy of the approved landscape plan(s) with a letter signed and stamped by a landscape architect licensed in the state of Washington certifying that the landscape and irrigation have been installed in accordance with the attached approved plan(s) and verifying that any plant substitutions are comparable to the approved plantings and suitable for the site.

<b>G</b>	<b>Development Review Timelines &amp; Advisory Information Review &amp; Approval Authority: None - Advisory to Applicant</b>
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**G-1 Site Plans and Other Land Use Approvals:**

Within 5 years of preliminary plan approval, a Fully Complete application for a

building permit shall be submitted.

**G-2 Department of Ecology Permit for Construction Stormwater:**

A permit from the Department of Ecology (DOE) is required If:

- The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; **AND**
- There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the one acre threshold. This applies even if the applicant is responsible for only a small portion [less than one acre] of the larger project planned over time. **The applicant shall Contact the DOE for further information.**

**G-3 Building Elevation Approvals:**

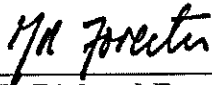
Approval of building elevations submitted for preliminary plan review does not ensure compliance with other requirements (e.g., building setbacks) under other construction codes. Compliance with other construction codes is the responsibility of the applicant at the time of building permit issuance.

<b>H</b>	<b>Post Development Requirements Review &amp; Approval Authority: As specified below</b>
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**H-1 Outdoor Lighting:**

Exterior lighting shall be located, shielded, and directed to prevent significant off site glare, in accordance with CCC 40.340.010(A)(7) and RCW 47.36.180. (See Land Use Finding 9)

Dated this 17th day of March, 2010

  
\_\_\_\_\_  
**J. Richard Forester**  
**Hearing Examiner**

**NOTE:** *Only the decision and the condition of approval are binding on the applicant, owner or subsequent developer of the subject property because of this order. Other parts of the final order are explanatory, illustrative and/or descriptive. There may be requirements of local, state, or federal law, or requirements, which reflect the intent of the applicant, the county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of the final order unless included as a condition.*

**Motion for Reconsideration:**

Any party of record to the proceeding before the hearings examiner may file with the responsible official a motion for reconsideration of an examiner's decision within fourteen (14) calendar days of written notice of the decision. A party of record includes the applicant

and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing, and/or submitted written testimony prior to or at the Public Hearing on this matter.

The motion must be accompanied by the applicable fee and identify the specific authority within the Code or other applicable laws, and/or specific evidence, in support of reconsideration. A motion may be granted for any one of the following causes that materially affects their rights of the moving party:

- a. Procedural irregularity or error, clarification, or scrivener's error, for which no fee will be charged;
- b. Newly discovered evidence, which the moving party could not with reasonable diligence have timely discovered and produced for consideration by the examiners;
- c. The decision is not supported by substantial evidence in the record; or,
- d. The decision is contrary to law.

Any party of record may file a written response to the motion if filed within fourteen (14) calendar days of filing a motion for reconsideration.

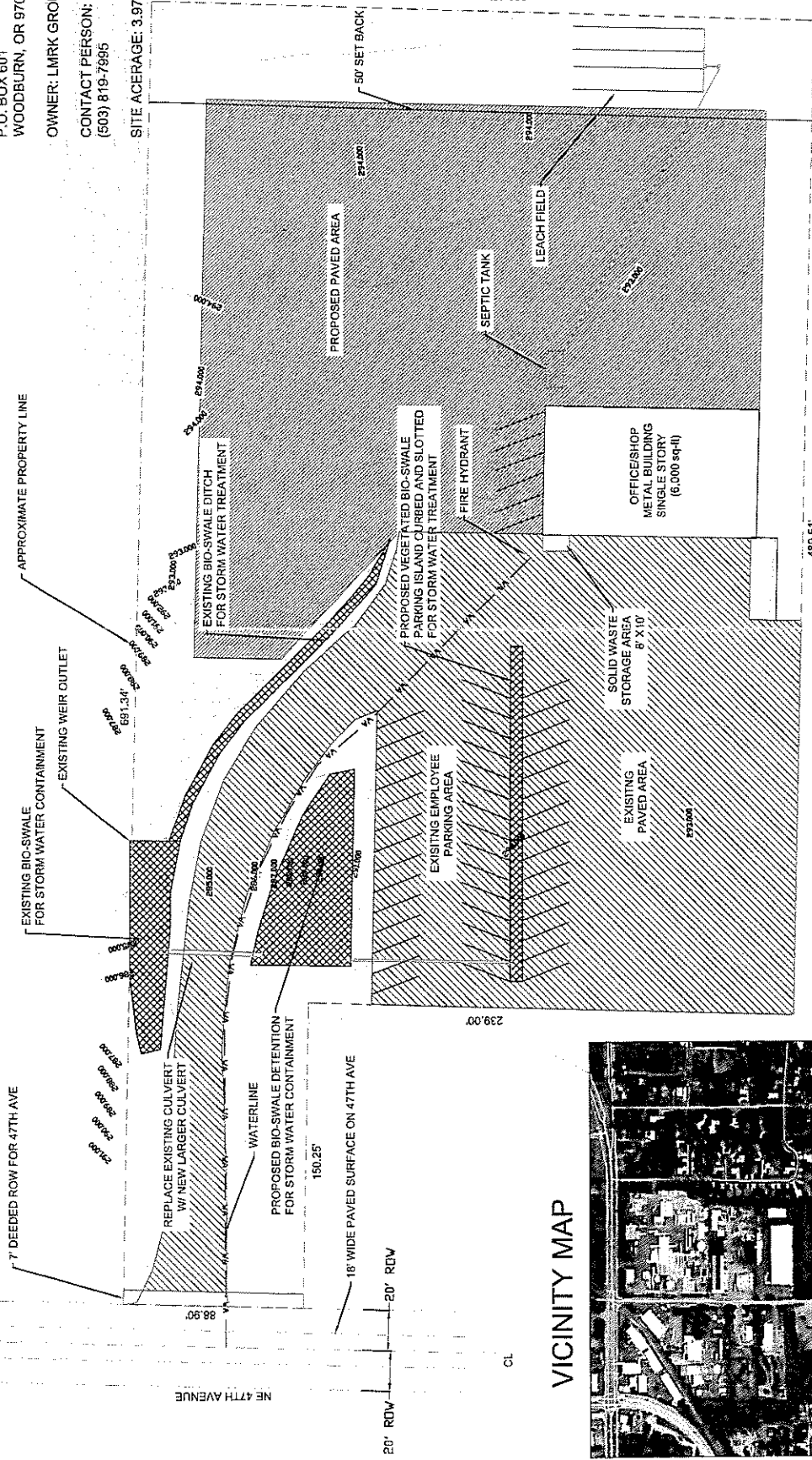
The examiner will issue a decision on the motion for reconsideration within twenty-eight (28) calendar days of filing of a motion for reconsideration.



# PROPOSED DEVELOPMENT AND EXISTING CONDITIONS PLAN

APPLICANT: LMRK GROUP, LLC  
P.O. BOX 601  
WOODBURN, OR 97071  
OWNER: LMRK GROUP, LLC  
CONTACT PERSON: MITCH MAGENHEIMER  
(503) 819-7895

SITE AGERAGE: 3.97 ACRES (172,933.89 sq-ft)



NOTE:  
NO NEW CONSTRUCTION PROPOSED

## VICINITY MAP

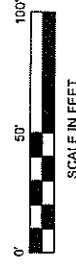


EXHIBIT # 5



# HEARING EXAMINER EXHIBITS

Project Name: OUTSIDE STORAGE AREA EXPANSION

Case Number: CUP2009-00009; PSR2009-00035; SEP2009-00077

Hearing Date: 2/25/10

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Development Services	Aerial Map
2		CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	9/4/09	The LMRK Group, LLC	11x17 Map
6	9/4/09	The LMRK Group, LLC	Electronic Submittal Package: Application Form, Pre-App Rpt, GIS Packet, Narrative, Legal Lot Determination, Approved Plats Abutting Site, Proposed Dev Plan, Soil Analysis Rpt, Stormwater Design Rpt/Plan, Engineer Statement, Proposed Phasing Plan, Traffic Study, SEPA, Sewer Dist Ltr, Water Utility Ltr,
7	09/25/09	CC Development Services	NOT Fully Complete Letter
8	10/26/09	CC Development Services	<b>SECOND</b> NOT Fully Complete Letter
9	11/24/09	CC Development Services	Fully Complete Letter
10	11/24/09	CC Development Services	<b>REVISED</b> Fully Complete Letter
11	12/31/09	CC Development Services	Notice of Type III Dev Rev, Optional SEPA & Public Hearing
12	12/31/09	CC Development Services	Affidavit of Mailing Public Notice
13	1/6/10	Carleen Stephens/Perry Stephens	Public comments
14	1/8/10	Tina Hallock, Southwest Clean Air Agency (SWCAA)	SEPA comments
15	1/14/10	WS Dept. of Ecology	SEPA comments
16	1/8/10	M. Uduk, Community Services	30-day early issues meeting notes to applicant
17	2/8/10	CC Development Services	Notice of Public Hearing

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
18	2/9/10	CC Development Services	Affidavit of Posting Type III Public Notice
19	2/10/10	CC Development Services – Michael Uduk	Type III Development & Environmental Review, Staff Report & Recommendation
20 & 20A	2/23/10	Lance Downs, PE, for Applicant	Storm water and erosion control narrative, calculations, and plan
21	2/23/10	Lance Downs, PE, for Applicant	Landscaping plan
22	2/25/10	CC Development Services	PowerPoint Presentation
23	2/25/10	Public Works Development Engineering Staff	Revised Engineer Addendum
24	2/25/10	The LMRK Group, LLC	Narrative for Landscaping Plan

Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division  
1300 Franklin Street  
Vancouver, WA 98666-9810